

★ AUG 30 2011 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
-----X  
REGINALD HERBIN,

BROOKLYN OFFICE

Plaintiffs,

- against -

CITY OF NEW YORK, et al.,

Defendants.

**MEMORANDUM & ORDER**

11-CV-1554 (SLT) (JO)

TOWNES, United States District Judge:

On March 23, 2011, pro se plaintiff Reginald Herbin commenced this action against the City of New York (the "City") and two individual police officers, alleging violations of his constitutional rights arising from his April 3, 2008, arrest. (Docket No. 1). By letter dated June 2, 2011, the City notified the Court that Herbin, who was incarcerated at the time he filed his complaint, was no longer in custody. (Docket No. 13). The City therefore served a copy of the Court's prior discovery order on Herbin at his last known address, and Magistrate Judge James Orenstein ordered that Herbin appear in person at the next status conference on June 8, 2011. When Herbin failed to appear on that date, Judge Orenstein allowed one final opportunity for Herbin to comply or else face a recommendation of dismissal for failure to prosecute. (Docket No. 14). Judge Orenstein directed the City to serve the order on Herbin at his last known address as well as the address provided in a separate litigation. (Id.). On June 15, 2011, Herbin filed a notice of change of address. (Docket No. 16). Nevertheless, he failed to appear at the June 23, 2011, conference or comply with a previous discovery order. (Docket No. 17). Accordingly, Judge Orenstein indicated that he would enter a recommendation urging the Court to dismiss Herbin's claims. (Id.).

On June 24, 2011, Judge Orenstein issued a report and recommendation ("R&R") recommending that the Court sua sponte dismiss this action with prejudice, pursuant to Federal

Rule of Civil Procedure 41(b). (Docket No. 18). On July 21, 2011, after the deadline for objections had passed, Herbin filed a letter requesting an extension of sixty days, stating that he “intend[ed] to proceed and . . . comply with all orders of the Court.” (Docket No. 21 at 2). Herbin failed, however, to appear on August 8, 2011, as required and did not respond to a telephone message reminding him of the conference. (Docket No. 24). By order dated August 9, 2011, Judge Orenstein denied Herbin’s request for an extension without prejudice and again concluded that Herbin had “failed to take reasonable steps to vindicate his perceived rights.” (Id. at 26).

A district court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). Nonetheless, when no objections are filed, many courts seek to satisfy themselves “that there is no clear error on the face of the record.” Fed. R. Civ. P. 72(b) advisory committee note (1983 Addition); see also Edwards v. Town of Huntington, No. 05 Civ. 339 (NGG) (AKT), 2007 WL 2027913, at \*2 (E.D.N.Y. July 11, 2007). As an initial matter, the Court declines to revisit Herbin’s belated request for an extension. Accordingly, having reviewed the record in this case and finding no clear error, the Court adopts the R&R (Docket No. 18) in its entirety pursuant to 28 U.S.C. § 636(b)(1) and dismisses the complaint. The Clerk of Court is respectfully directed to close the case.

**SO ORDERED.**

/S/ S.L.T.  
SANDRA L. TOWNES  
United States District Judge

Dated: August 29, 2011  
Brooklyn, New York